

106TH CONGRESS
2D SESSION

S. 2994

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small business health plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. ROBB introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small business health plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Insurance Eq-
5 uity Act of 2000”.

6 **SEC. 2. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO**
7 **QUALIFIED HEALTH BENEFIT PURCHASING**
8 **COALITIONS.**

9 (a) IN GENERAL.—Section 4942 of the Internal Rev-
10 enue Code of 1986 (relating to taxes on failure to dis-

1 tribute income) is amended by adding at the end the fol-
 2 lowing:

3 “(k) CERTAIN QUALIFIED HEALTH BENEFIT PUR-
 4 CHASING COALITION DISTRIBUTIONS.—

5 “(1) IN GENERAL.—For purposes of subsection
 6 (g) and section 4945(d)(5), a qualified health benefit
 7 purchasing coalition distribution by a private foun-
 8 dation shall be considered to be a distribution for a
 9 charitable purpose.

10 “(2) QUALIFIED HEALTH BENEFIT PUR-
 11 CHASING COALITION DISTRIBUTION.—For purposes
 12 of paragraph (1)—

13 “(A) IN GENERAL.—The term ‘qualified
 14 health benefit purchasing coalition distribution’
 15 means any amount paid by a private foundation
 16 to or on behalf of a qualified health benefit pur-
 17 chasing coalition (as defined in section 9841)
 18 for purposes of payment or reimbursement of
 19 start-up costs paid or incurred in connection
 20 with the establishment and maintenance of such
 21 coalition.

22 “(B) EXCLUSIONS.—Such term shall not
 23 include any amount used by a qualified health
 24 benefit purchasing coalition (as so defined)—

25 “(i) for the purchase of real property,

1 “(ii) as payment to, or for the benefit
 2 of, members (or employees or affiliates of
 3 such members) of such coalition, or

4 “(iii) for start-up costs paid or in-
 5 curred more than 24 months after the date
 6 of establishment of such coalition.

7 “(3) TERMINATION.—This subsection shall not
 8 apply—

9 “(A) to qualified health benefit purchasing
 10 coalition distributions paid or incurred after
 11 December 31, 2008, and

12 “(B) with respect to start-up costs of a co-
 13 alition which are paid or incurred after Decem-
 14 ber 31, 2010.”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 this subsection shall apply to qualified health benefit pur-
 17 chasing coalition distributions, as defined in section
 18 4942(k)(2) of the Internal Revenue Code of 1986, as
 19 added by subsection (a), paid in taxable years beginning
 20 after December 31, 2000.

21 **SEC. 3. SMALL BUSINESS HEALTH PLAN TAX CREDIT.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
 23 chapter A of chapter 1 of the Internal Revenue Code of
 24 1986 (relating to business-related credits) is amended by
 25 adding at the end the following:

1 **“SEC. 45D. EMPLOYEE HEALTH INSURANCE EXPENSES.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 in the case of a small employer (as defined in section
4 4980D(d)(2)), the employee health insurance expenses
5 credit determined under this section for the taxable year
6 is an amount equal to the applicable percentage of the
7 amount paid by the taxpayer during the taxable year for
8 qualified employee health insurance expenses.

9 “(b) APPLICABLE PERCENTAGE.—For purposes of
10 subsection (a), the applicable percentage is—

11 “(1) in the case of insurance purchased as a
12 member of a qualified health benefit purchasing coa-
13 lition (as defined in section 9841), 25 percent, and

14 “(2) in the case of insurance not described in
15 paragraph (1), 20 percent.

16 “(c) PER EMPLOYEE DOLLAR LIMITATION.—

17 “(1) IN GENERAL.—The amount of qualified
18 employee health insurance expenses taken into ac-
19 count under subsection (a) with respect to any quali-
20 fied employee for any taxable year shall not exceed
21 the sum of the monthly limitations for coverage
22 months of such employee during such taxable year.

23 “(2) MONTHLY LIMITATION.—The monthly lim-
24 itation for each coverage month during the taxable
25 year is equal to $\frac{1}{12}$ of—

1 “(A) \$2,000 in the case of self-only cov-
 2 erage, and

3 “(B) \$5,000 in the case of family coverage.

4 “(3) COVERAGE MONTH.—For purposes of this
 5 subsection, the term ‘coverage month’ means, with
 6 respect to an individual, any month if—

7 “(A) as of the first day of such month
 8 such individual is covered by the taxpayer’s new
 9 health plan, and

10 “(B) the premium for coverage under such
 11 plan for such month is paid by the taxpayer.

12 “(d) DEFINITIONS.—For purposes of this section—

13 “(1) QUALIFIED EMPLOYEE.—

14 “(A) IN GENERAL.—The term ‘qualified
 15 employee’ means, with respect to any period, an
 16 employee of an employer if—

17 “(i) the total amount of wages paid or
 18 incurred by such employer with respect to
 19 such employee for the taxable year exceeds
 20 \$10,000, and

21 “(ii) the employee is not a highly com-
 22 pensated employee.

23 “(B) TREATMENT OF CERTAIN EMPLOY-
 24 EES.—For purposes of subparagraph (A), the
 25 term ‘employee’ shall include—

1 “(i) an employee within the meaning
2 of section 401(c)(1), and

3 “(ii) a leased employee within the
4 meaning of section 414(n).

5 “(C) EXCLUSION OF CERTAIN EMPLOY-
6 EES.—

7 “(i) IN GENERAL.—If a plan—

8 “(I) prescribes minimum age and
9 service requirements as a condition of
10 coverage, and

11 “(II) excludes all employees not
12 meeting such requirements from cov-
13 erage,

14 then such employees shall be excluded from
15 consideration for purposes of this para-
16 graph.

17 “(ii) COLLECTIVE BARGAINING
18 AGREEMENT.—For purposes of this para-
19 graph, there shall be excluded from consid-
20 eration employees who are included in a
21 unit of employees covered by an agreement
22 between employee representatives and one
23 or more employers, if there is evidence that
24 health insurance benefits were the subject

of good faith bargaining between such employee representatives and such employer.

“(iii) LIMITS ON MINIMUM REQUIREMENTS.—Rules similar to the rules of section 410(a) shall apply with respect to minimum age and service requirements under clause (i).

“(D) WAGES.—The term ‘wages’—

“(i) has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section), and

“(ii) in the case of an employee described in subparagraph (B)(i), includes the net earnings from self-employment (as defined in section 1402(a) and as so determined).

“(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified employee health insurance expenses’ means any amount paid or incurred by an employer during the applicable period for health insurance coverage provided under a new health plan to the extent such amount is attributable to coverage

1 provided to any employee who is not a highly
2 compensated employee.

3 “(B) EXCEPTION FOR AMOUNTS PAID
4 UNDER SALARY REDUCTION ARRANGEMENTS.—
5 No amount paid or incurred for health insur-
6 ance coverage pursuant to a salary reduction
7 arrangement shall be taken into account under
8 subparagraph (A).

9 “(C) HEALTH INSURANCE COVERAGE.—
10 The term ‘health insurance coverage’ has the
11 meaning given such term by section 9832(b)(1).

12 “(D) NEW HEALTH PLAN.—For purposes
13 of this paragraph, the term ‘new health plan’
14 means any arrangement of the employer which
15 provides health insurance coverage to employees
16 if—

17 “(i) such employer (or predecessor
18 employer) did not establish or maintain
19 such arrangement (or any similar arrange-
20 ment) at any time during the 2 taxable
21 years ending prior to the taxable year in
22 which the credit under this section is first
23 allowed, and

24 “(ii) such arrangement covers at least
25 70 percent of the qualified employees of

1 such employer who are not otherwise cov-
2 ered by health insurance.

3 “(E) APPLICABLE PERIOD.—For purposes
4 of subparagraph (A), the applicable period with
5 respect to an employer shall be the 4-year pe-
6 riod beginning on the date such employer estab-
7 lishes a new health plan.

8 “(3) HIGHLY COMPENSATED EMPLOYEE.—The
9 term ‘highly compensated employee’ means an em-
10 ployee who for the preceding year had compensation
11 from the employer in excess of \$75,000.

12 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-
13 poses of this section, rules similar to the rules of section
14 52 shall apply.

15 “(f) DISALLOWANCE OF DEDUCTION.—No deduction
16 shall be allowed for that portion of the qualified employee
17 health insurance expenses for the taxable year which is
18 equal to the amount of the credit determined under sub-
19 section (a).

20 “(g) TERMINATION.—This section shall not apply to
21 expenses paid or incurred by an employer with respect to
22 any arrangement established on or after January 1,
23 2009.”.

24 (b) CREDIT TO BE PART OF GENERAL BUSINESS
25 CREDIT.—Section 38(b) of the Internal Revenue Code of

1 1986 (relating to current year business credit) is amended
 2 by striking “plus” at the end of paragraph (11), by strik-
 3 ing the period at the end of paragraph (12) and inserting
 4 “, plus”, and by adding at the end the following:

5 “(13) the employee health insurance expenses
 6 credit determined under section 45D.”

7 (c) NO CARRYBACKS.—Subsection (d) of section 39
 8 of the Internal Revenue Code of 1986 (relating to
 9 carryback and carryforward of unused credits) is amended
 10 by adding at the end the following:

11 “(9) NO CARRYBACK OF SECTION 45D CREDIT
 12 BEFORE EFFECTIVE DATE.—No portion of the un-
 13 used business credit for any taxable year which is
 14 attributable to the employee health insurance ex-
 15 penses credit determined under section 45D may be
 16 carried back to a taxable year ending before the date
 17 of the enactment of section 45D.”

18 (d) CLERICAL AMENDMENT.—The table of sections
 19 for subpart D of part IV of subchapter A of chapter 1
 20 of the Internal Revenue Code of 1986 is amended by add-
 21 ing at the end the following:

“Sec. 45D. Employee health insurance expenses.”

22 (e) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to amounts paid or incurred in tax-
 24 able years beginning after December 31, 2000, for ar-

1 rangements established after the date of the enactment
2 of this Act.

3 **SEC. 4. QUALIFIED HEALTH BENEFIT PURCHASING COALI-**
4 **TION.**

5 (a) IN GENERAL.—Chapter 100 of the Internal Rev-
6 enue Code of 1986 (relating to group health plan require-
7 ments) is amended by adding at the end the following new
8 subchapter:

9 **“Subchapter D—Qualified Health Benefit**
10 **Purchasing Coalition**

“Sec. 9841. Qualified health benefit purchasing coalition.

11 **“SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING CO-**
12 **ALITION.**

13 “(a) IN GENERAL.—A qualified health benefit pur-
14 chasing coalition is a private not-for-profit corporation
15 which—

16 “(1) is licensed to provide health insurance in
17 the State in which the employers to which such coa-
18 lition is providing insurance is located, and

19 “(2) establishes to the Secretary, under State
20 certification procedures or other procedures as the
21 Secretary may provide by regulation, that such coali-
22 tion meets the requirements of this section.

23 “(b) BOARD OF DIRECTORS.—

1 “(1) IN GENERAL.—Each purchasing coalition
2 under this section shall be governed by a Board of
3 Directors.

4 “(2) ELECTION.—The Secretary shall establish
5 procedures governing election of such Board.

6 “(3) MEMBERSHIP.—The Board of Directors
7 shall—

8 “(A) be composed of small employers and
9 employee representatives of such employers, but

10 “(B) not include other interested parties,
11 such as service providers, health insurers, or in-
12 surance agents or brokers which may have a
13 conflict of interest with the purposes of the coa-
14 lition.

15 “(c) MEMBERSHIP OF COALITION.—

16 “(1) IN GENERAL.—A purchasing coalition—

17 “(A) shall accept all small employers resid-
18 ing within the area served by the coalition as
19 members if such employers request such mem-
20 bership, and

21 “(B) may accept any other employers re-
22 siding with such area.

23 “(2) VOTING.—Members of a purchasing coali-
24 tion shall have voting rights consistent with the rules
25 established by the State.

1 “(d) DUTIES OF PURCHASING COALITIONS.—Each
2 purchasing coalition shall—

3 “(1) enter into agreements with employers to
4 provide health insurance benefits to employees of
5 such employers,

6 “(2) enter into agreements with 3 or more un-
7 affiliated, qualified licensed health plans, to offer
8 benefits to members,

9 “(3) offer to members at least 1 open enroll-
10 ment period per calendar year,

11 “(4) serve a significant geographical area, and

12 “(5) carry out other functions provided for
13 under this section.

14 “(e) LIMITATION ON ACTIVITIES.—A purchasing coa-
15 lition shall not—

16 “(1) perform any activity (including certifi-
17 cation or enforcement) relating to compliance or li-
18 censing of health plans,

19 “(2) assume insurance or financial risk in rela-
20 tion to any health plan, or

21 “(3) perform other activities identified by the
22 State as being inconsistent with the performance of
23 its duties under this section.

24 “(f) ADDITIONAL REQUIREMENTS FOR PURCHASING
25 COALITIONS.—As provided by the Secretary in regula-

1 tions, a purchasing coalition shall be subject to require-
 2 ments similar to the requirements of a group health plan
 3 under this chapter.

4 “(g) DEFINITION OF SMALL EMPLOYER.—The term
 5 ‘small employer’ has the meaning given such term by sec-
 6 tion 4980D(d)(2).”.

7 (b) CONFORMING AMENDMENT.—The table of sub-
 8 chapters for chapter 100 of the Internal Revenue Code
 9 of 1986 is amended by adding at the end the following
 10 item:

“Subchapter D. Qualified health benefit purchasing coalition.”.

